

MHST190000892025



IN THE COURT OF ADDITIONAL SESSIONS JUDGE, WAI
ORDER BELOW EXH.5 IN SPECIAL CASE NO. 20 OF 2025
(State of Maharashtra ..Versus.. Indrajit Hindurao Desai)

ORDER BELOW EXH.5
(Passed on this 04th of March 2025)

1] Instant bail application has been filed under Section 483 of the Bhartiya Nagrik Suraksha Sanhita (for short “B.N.S.S.”), 2023, for grant of regular bail inter-alia contending that Police Station Officer, Bhuinj has registered Crime bearing No.384/2024 relating to the offences punishable under Sections 140(2), 109, 3(5) and 62 of Bharatiya Nyaya Sanhita (for short “BNS Act”), 2023.

2] In brief, prosecution has alleged that first informant is one Mayur Vikas Jadhav. First informant Mayur Vikas Jadhav, age 26 yrs. According to him, his father died on 08/09/2024. Prior to his death, he obtained loan of Rs.4,00,000/- from the applicant, who is accused No.5. Out of which, he repaid Rs.2,50,000/-. Applicant was repeatedly demanding Rs.1,50,000/-, so his brother executed Notarized document in his favour on 26/11/2024 at Medha. On 28/11/2024 first informant with his friend Juber Shaikh and Ajay Mahamulkar went at Bhuinj for dinner. At 6.45 pm while they returning, they sat in the car. Suddenly, one man came and opened the door of the car and gave a blow of fight on his face and sat on the driving seat. Others two also entered in the car. They introduced and said that, they have killed 30 persons and now Indrajit Desai means applicant has appointed them to collect Rs.5,00,000/- i.e. Rs.1,50,000/- with interest and

to kill first informant. They carried the car at Phaltan road and dropped his friend. Thereafter, they carried them further 7 to 8 k.m. Meanwhile, Juber tried to resist, but they stabbed knife twice on his stomach. So they all kept quite. Thereafter Ajay and Juber were dropped at unknown place. One swift car came following them. The first informant was taken out of the car. The three persons in his car and the other driver of car, all carried him at Dahiwadi. There in one dilapidated house, they all assaulted him with fist and blows. Somehow he rescued. The other four persons are unknown to him. They were calling each other and on the basis of introduction given by them, he lodged report against all for the offences mentioned above and crime was registered.

3] Applicant has stoutly denied all the allegations and claimed to be innocent one. There is delay in lodging the FIR. The accused are the real victims and the informant and his brother have cheated them. Applicant has no criminal antecedent. Earlier bail applications of applicant came to be rejected on the ground of incomplete investigation. Now, investigation has been already completed and charge- sheet has been filed in the Court. He is ready to co-operate in the trial. He will not misuse bail, in case it is granted to him. Lastly, it is implored for allowing his bail application.

4] Prosecution has resisted the bail application by filing Say vide Exh.07. It is contended that the bail application of accused- Indrajit Hindurao Desai has been rejected by the court. The weapon and vehicle used in the commission of crime are yet to be seized. In such circumstances, if applicant is released on bail then he will misuse the same and will commit repetition of crime. Lastly, it is prayed for rejecting the bail application.

5] First informant has filed his say vide Exh.8 and strongly opposed the application by contending that the offence is serious. If the applicant is released on bail, then he will pressurize him and witnesses and will create hurdles in the trial. There is danger to his life as well as lives of his family members, as accused are residing near to his house. There are many crimes registered against the applicant/accused in various police stations. Applicant is habitual criminal. There are no grounds to release applicant on bail. Accordingly, it is implored to reject the bail application.

6] I have heard learned Counsel Shri.A.A.Chorage for applicant and learned APP Shri A.R.Kulkarni.

7] Applicant has filed following documents on record-

A] Copy of FIR.

B] Copy of order in Bail Application No.262/2024 dated 06/01/2025.

C] Copy of order in Bail Application No.10/2025 dated 01/02/2025.

8] Learned counsel of applicant has relied upon following Judgment :

A) **Bhagirath Sinh s/o Mahipat Singh Judeja Vs. State of Gujarat, 1984 AIR 372, 1984 SCR (1) 839;** Its relevant para is reproduced as under :

“If there is no prima facie case there is no question of considering other circumstances But even where a prima facie case is established, the approach of the court in the matter of bail

is not that the accused should be detained by way of punishment but whether the presence of the accused would be readily available for trial or that he is likely to abuse the discretion grained in his favour by tampering with evidence.”

9] On perusal of case papers, in case in hand, it will find that no doubt, charge-sheet has been filed and investigation has been completed. But fact remains that three accused persons are yet to be arrested. It also appears that as per allegations made in FIR, at the instigation of present applicant/accused only, alleged offence appears to have been committed. Nature of allegations made against applicant/accused is serious one. First bail application was rejected on 06.01.2025. Second bail application was also rejected on 01.02.2025. There is no change of circumstance. Mere filing of charge-sheet does not lessen the gravity of offence and allegations made against the applicant/accused. Case papers show the involvement of applicant in the present crime.

10] Apart from this, allegations made in the case in hand are serious one. Injured Juber was hospitalized during the period 29/11/2024 to 05/12/2024. He appears to have undergone surgery. He appears to be injured from the side of accused persons inasmuch as accused persons have stabbed with knife on his abdomen. Admittedly, some of the accused persons are still absconding. No doubt, charge-sheet has been filed. In such circumstances, if applicant is released on bail then there are every chances of creating hurdle in the progress of trial and he will create hurdles in arresting other absconding accused

persons. As such, according to me, there are no legal grounds so as to allow the bail application. So far as cited Judgment is concerned, facts and circumstances appearing in it are totally different than the case in hand. Therefore, it is not useful to the applicant so as to allow his bail application, with due respects. Therefore, for all above mentioned reasons, bail application is liable to be rejected. In the result, following order is passed:

ORDER

Bail application (Exh.5) is rejected.

Wai
Date: 04.03.2025

(R.N.Mehare)
Addl. Sessions Judge, Wai.